

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-729

December 7, 2004

RANDY TURCOTTE
Appeal of Consumer Assistance Division
Decision

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we find that Verizon-Maine (Verizon) may charge its customers \$91, under its Customer Premises Work tariff, for a premise visit when Verizon diagnoses a problem to be on the customer's side of the network interface. Therefore, we overturn the September 30, 2004 decision of the Consumer Assistance Division concerning Verizon's customer Randy Turcotte.

II. BACKGROUND

This case concerns how much Verizon may charge when it visits a customer's residence and diagnoses the problem as being on the customer's side of the network interface device (NID). In this instance, it charged Mr. Randy Turcotte \$91 after it diagnosed the problem as being beyond the interface. It did no repairs inside the residence. Verizon claims this charge is permitted in Part A, Section 2, Page 8, Section 2.2.3.G.1., of its rate schedules which provides:

If the Telephone Company makes a repair visit to the customer's premises and the service difficulty or trouble results from customer premise wire, customer premises work charges may apply. If the customer elects to have the Telephone Company replace the CPW [customer premise wire] after the trouble is located therein, customer premises work charges apply.

Customer Premises Work charges are described in Part M, Section 1, Page 5, Section 1.3.2. This section describes a variety of charges for customer premise work. Verizon applied the charge associated with "Residence-Repair" of \$91 for the first 30 minutes.

CAD found that the charge should be the one in the tariff for "Premise Work," also found in Section 1.3.2, instead of the "Customer Premises Work" applied by Verizon. The Premise Work charge allows for material and time for work up to the network interface at a charge of \$26 for the first 15 minutes and \$10 for each additional 15 minutes or fraction thereof. Therefore, CAD found the charge should be \$26 rather than \$91.

On October 12, 2004, Verizon appealed the decision to the Commission. It claims that CAD has inappropriately applied the "Premise Work" charge to this situation. Part A, Section 3, Page 2 of its tariffs describes when Premises Work charges apply and separately describes when Customer Premises Work charges apply. According to Verizon, the Premises Work charge applies only to customers requesting installation activity and only for work on Verizon's side of the network interface. Examples include moving the NID or the drop wire. There is never a charge for repair work Verizon performs on its side of the NID. The Customer Premise Work charge applies to both installation and repair activity at the customer's premises and for work done on the customer's side of the NID. Verizon further cites Part A, Section 2.2.3.G.1, which specifically allows the Company to apply Customer Premises Work charges if, during a repair visit, the difficulty is diagnosed as being with the customer's premises wire.

III. DECISION

We grant Verizon's appeal and find that it properly applied its tariffs when it charged Mr. Turcotte \$91. We find that Verizon's terms and conditions and rate schedules allow it to charge Customer Premises Work charges of \$91 when it diagnoses trouble on a residential customer's side of the network interface. This charge is permitted by Part A, Section 3, Page 2, Section 3.1.4, Part A, Section 2, Page 8, Section G.1 and Part M, Section 1, Page 6, Section 1.3.2 of its tariffs. This charge is permitted even if the telephone company performs no actual work on the customer's side of the NID.¹

We also find that Verizon's terms and conditions could be clearer as to when various charges apply. The term Premise Work Charge and Customer Premises Work Charges are so similar it causes confusion. In addition, it is unclear why Part A, Section 2.1.2.3 G.1 states that "Customer Premises Work Charges" *may* apply if the trouble results from customer premise wire" (emphasis added). This implies that it is within the discretion of the Company to apply the charge. We direct Verizon to modify its tariffs within 30 days to clarify that the \$91 charge applies if Verizon finds the problem to be on the customer's side of the NID whether or not Verizon does any repair or diagnosis work inside a residence. The tariff should include exceptions to applying the charge, such as when a customer is unable to test the NID or when, after Verizon tests at the NID, the cause of the problem is unclear. We note that disputes are less likely to arise if Verizon continues its practice of informing customers of the amount of these charges prior to scheduling a repair visit, as well as informing customers on how they can determine the location of the problem by testing at the NID.

¹ When we last adopted amendments to Chapter 230, our rule concerning installation, maintenance and ownership of customer premises wire, we specifically stated that "the rule does not prohibit a LEC from charging for a diagnoses under its rate schedules if called to a customer's premises, even if the customer does not hire the LEC." See Order, Docket No. 96-329 at 8.

Dated at Augusta, Maine, this 7th day of December, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.